

1 HONORABLE RONALD B. LEIGHTON
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. C08-5599RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon several motions filed by the defendant. Having considered the entirety of the records and file herein, the Court finds and rules as follows:

Defendant seeks the appointment of counsel to assist in his 28 U.S.C. §2255 motion. [Dkt. #18].

The appointment of counsel in a habeas proceeding is discretionary. *LaMere v. Risley*, 827 F.2d 622, 626 (9th Cir. 1987); 18 U.S.C. §3006A(g). The decision is based on the complexity of the legal issues involved and the likelihood of success on the merits. *Weygant v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Because defendant has demonstrated a good understanding of the issues and the ability to present them to the Court, the Court declines to appoint an attorney to assist defendant in his §2255 motion. See *LaMere*, 827 F.2d at 626.

Defendant next seeks clarification of the scope of this Court's previous Order [Dkt. #15] ruling that the defendant has waived the attorney client privilege. [Dkt. #19]. As the Order states, the

1 information provided to the government by defendant's former counsel is limited to litigating this §2255
2 motion. No information obtained from defense counsel may be used in any reprocsecution of the
3 defendant.

4 The defendant also seeks discovery from the government. [Dkt. #20]. Because defendant's claims
5 all relate to his right to a speedy trial and the effectiveness of his counsel in protecting that right, he is not
6 entitled to the discovery he seeks. All of the information he needs to litigate his claims and for the Court
7 to decide this matter is either currently before the Court or will be provided in any supplemental
8 declaration of defendant's former counsel.

9 This Court previously permitted the defendant an extension of time to file any traverse to the
10 government's answer, and permitted the government to file a supplemental declaration of Paula Olson,
11 defendant's former counsel. In order to effectuate those prior rulings, any supplemental declaration of
12 Ms. Olson shall be filed on or before June 22, 2009. Defendant's traverse, if any, shall be filed on or
13 before July 20, 2009 and this matter will be noted on the Court's motion's calendar for July 24, 2009.

14 Defendant's motions for appointment of counsel [Dkt. #18] and for discovery [Dkt. #20] are
15 **DENIED**. Defendant's motion for clarification [Dkt. #19] is **GRANTED** as set forth in this Order.

16 **IT IS SO ORDERED.**

17 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party
18 appearing pro se.

19 Dated this 8th day of June, 2009.

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22 RONALD B. LEIGHTON
23 UNITED STATES DISTRICT JUDGE
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